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SENATE BILL 449

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Mark Boitano

AN ACT

RELATING TO TAXATION; EXPANDING ELIGIBILITY FOR THE LOCAL  
OPTION LOW-INCOME PROPERTY TAX REBATE PURSUANT TO THE INCOME  
TAX ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-2-14.3 NMSA 1978 (being Laws 1994,  
Chapter 111, Section 1, as amended) is amended to read:

"7-2-14.3. TAX REBATE OF PART OF PROPERTY TAX DUE FROM  
LOW-INCOME TAXPAYER--LOCAL OPTION--REFUND.--

A. The tax rebate provided by this section may be  
claimed for the taxable year for which the return is filed by  
~~[an individual who]~~ a taxpayer:

(1) ~~[has his]~~ whose principal place of residence  
is in a county that has adopted an ordinance pursuant to  
Subsection G of this section;

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1                   (2) who is not a dependent of another  
2 individual;

3                   (3) who files a return; and

4                   (4) who incurred a property tax liability on  
5 [~~his~~] the taxpayer's principal place of residence in the  
6 taxable year.

7                   B. The tax rebate provided by this section shall be  
8 allowed for any individual eligible to claim the refund  
9 pursuant to Subsection A of this section and who:

10                   (1) was not an inmate of a public institution  
11 for more than six months during the taxable year;

12                   (2) was physically present in New Mexico for at  
13 least six months during the taxable year for which the rebate  
14 is claimed; and

15                   (3) is eligible for the rebate as a low-income  
16 property taxpayer in accordance with the provisions of  
17 Subsection D of this section.

18                   C. A husband and wife who file separate returns for  
19 the taxable year in which they could have filed a joint return  
20 may each claim only one-half of the tax rebate that would have  
21 been allowed on the joint return.

22                   D. As used in the table in this subsection, "property  
23 tax liability" means the amount of property tax resulting from  
24 the imposition of the county and municipal property tax  
25 operating impositions on the net taxable value of the

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1 taxpayer's principal place of residence calculated for the year  
2 for which the rebate is claimed. The tax rebate provided in  
3 this section is as specified in the following table:

4 LOW-INCOME TAXPAYER'S PROPERTY TAX REBATE TABLE

5	Taxpayer's Modified Gross Income	Property Tax Rebate
6	But Not	
7	Over	Over
8	\$ 0	\$ 8,000 75% of property tax liability
9	8,000	10,000 70% of property tax liability
10	10,000	12,000 65% of property tax liability
11	12,000	14,000 60% of property tax liability
12	14,000	16,000 55% of property tax liability
13	16,000	18,000 50% of property tax liability
14	18,000	20,000 45% of property tax liability
15	20,000	22,000 40% of property tax liability
16	22,000	24,000 35% of property tax liability
17	<u>24,000</u>	<u>26,000</u> 30% of property tax liability
18	<u>26,000</u>	<u>28,000</u> 25% of property tax liability
19	<u>28,000</u>	<u>30,000</u> 20% of property tax liability
20	<u>30,000</u>	<u>32,000</u> 10% of property tax liability
21	<u>32,000 or more</u>	<u>0% of property tax liability.</u>

22 E. If a taxpayer's modified gross income is zero, the  
23 taxpayer may claim a tax rebate in the amount shown in the  
24 first row of the table. The tax rebate provided for in this  
25 section shall not exceed three hundred fifty dollars (\$350) per

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1 return and, if a return is filed separately that could have  
2 been filed jointly, the tax rebate shall not exceed one hundred  
3 seventy-five dollars (\$175). No tax rebate shall be allowed  
4 any taxpayer whose modified gross income exceeds [~~twenty-four~~  
5 ~~thousand dollars (\$24,000)] thirty-two thousand dollars  
6 (\$32,000).~~

7 F. The tax rebate provided for in this section may be  
8 deducted from the taxpayer's New Mexico income tax liability  
9 for the taxable year. If the tax rebate exceeds the taxpayer's  
10 income tax liability, the excess shall be refunded to the  
11 taxpayer.

12 G. In January of every odd-numbered year in which a  
13 county does not have in effect an ordinance adopted pursuant to  
14 this subsection, the board of county commissioners of the  
15 county shall conduct a public hearing on the question of  
16 whether the property tax rebate provided in this section  
17 benefiting low-income property taxpayers in the county should  
18 be made available through adoption of a county ordinance.  
19 Notice of the public hearing shall be published once at least  
20 two weeks prior to the hearing date in at least one newspaper  
21 of general circulation in the county and broadcast at some time  
22 within the week before the hearing on at least one radio  
23 station with substantial broadcasting coverage in the county.  
24 At the public hearing, the board shall take action on the  
25 question, and if a majority of the members elected votes to

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1 adopt an ordinance, it shall be adopted no later than thirty  
2 days after the public hearing.

3 H. An ordinance adopted pursuant to Subsection G of  
4 this section shall specify the taxable years to which it is  
5 applicable. The board of county commissioners adopting an  
6 ordinance shall notify the department of the adoption of the  
7 ordinance and furnish a copy of the ordinance to the department  
8 no later than September 1 of the first taxable year to which  
9 the ordinance applies.

10 I. No later than December 31 of the year immediately  
11 following the first year in which the low-income taxpayer  
12 property tax rebate provided in the Income Tax Act is in effect  
13 for a county, and no later than December 31 of each year  
14 thereafter in which the tax rebate is in effect, the department  
15 shall certify to the county the amount of the loss of income  
16 tax revenue to the state for the previous taxable year  
17 attributable to the allowance of property tax rebates to  
18 taxpayers of that county. The county shall promptly pay the  
19 amount certified to the department. If a county fails to pay  
20 the amount certified within thirty days of the date of  
21 certification, the department may enforce collection of the  
22 amount by action against the county and may withhold from any  
23 revenue distribution to the county, not dedicated or pledged,  
24 amounts up to the amount certified.

25 J. As used in this section, "principal place of

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1 residence" means the dwelling owned and occupied by the  
2 taxpayer and so much of the land surrounding it, not to exceed  
3 five acres, as is reasonably necessary for use of the dwelling  
4 as a home and may consist of a part of a multidwelling or a  
5 multipurpose building and a part of the land upon which it is  
6 built."

7 Section 2. APPLICABILITY.--The provisions of this act  
8 apply to taxable years beginning on or after January 1, 2008.

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